



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

**VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED**

Michael K. Forde  
Mayer, Brown, Rowe & Mawe LLP  
190 South La Salle Street  
Chicago, IL 60603-3441

FEB 25 2005

RE: MUR 5405  
Hynes for Senate and Jeffrey C. Wagner,  
in his official capacity as treasurer

Dear Mr. Forde:

On February 3, 2004, the Federal Election Commission (the "Commission") notified Hynes for Senate (the "Committee") and Jeffrey C. Wagner, in his official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On February 8, 2005, the Commission found, on the basis of the information in the complaint, and other available information, that there is no reason to believe that the Committee or Mr. Wagner, in his official capacity as treasurer, violated 2 U.S.C. § 441f.

On the same date, the Commission also decided to take no action against the Committee or Mr. Wagner, in his official capacity as treasurer, with respect to violations of 2 U.S.C. § 441b(a).

However, the Commission on February 8, 2005, did find reason to believe that the Committee and Mr. Wagner, in his official capacity as treasurer, violated 2 U.S.C. § 434(b) by failing to file accurate disclosure reports reflecting all contributions received by the Committee. After considering the circumstances of this matter, the Commission determined to take no further action. The Factual and Legal Analysis, which formed a basis for the Commission's finding with respect to this violation, is enclosed for your information.

The Committee is admonished that failure to report receipt of in-kind contributions is a violation of 2 U.S.C. § 434(b). The Committee and Mr. Wagner, in his official capacity as treasurer, should amend its disclosure reports to reflect the receipt of the in-kind contributions described in the Financial and Legal Analysis, and should take steps to ensure that similar reporting violations not occur in the future.

25044111784

Michael K. Forde  
MUR 5405  
Hynes for Senate and Jeffrey C. Wagner,  
in his official capacity as treasurer  
Page 2

Further, you and your clients are reminded that the file is not yet closed in this matter, and that the matter remains confidential pursuant to 2 U.S.C. § 437g(a)(12)(A). You will be advised when the entire file is closed. At that time, we will also advise you whether your clients have any obligations to refund or disgorge contributions pursuant to 11 C.F.R. § 103.3(b).

Sincerely,



Michael E. Toner  
Vice Chairman

Enclosure  
Factual and Legal Analysis

25044111785

**FEDERAL ELECTION COMMISSION**  
**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Hynes for Senate and Jeffrey Wagner,  
in his official capacity as treasurer

MUR 5405

**I. INTRODUCTION**

This matter was generated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

**II. FACTUAL SUMMARY**

Daniel Hynes is currently Comptroller of the State of Illinois, an elective position. He was first elected to this position in 1998, and won reelection in 2002. In early 2003, Daniel Hynes announced his candidacy for the U.S. Senate from Illinois. Hynes for Senate is the principal campaign committee supporting the election of Daniel Hynes to the U.S. Senate.

Available information indicates that the fall of 2003, Hynes for Senate approached James Chao, a campaign contributor and volunteer, and asked if he had any used furniture he could contribute because the Hynes campaign increased the size of its campaign staff and office space. Chao agreed and provided desks and a brand new sofa and refrigerator worth approximately \$1,500, all of which had been paid for with the corporate funds of Apex Healthcare, Inc. ("APEX"). Mr. Chao had the items delivered to the Hynes for Senate campaign headquarters. Although it does not appear that Hynes for Senate knew that APEX was the source of the in-kind contribution, Hynes for Senate did not disclose this in-kind contribution in any of its FEC filings.

25044111786

### III. LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act") imposes accounting and reporting requirements on all political committees. The treasurer of a political committee must keep track of all contributions received by or on behalf of the political committee and record the name and address of any person who makes any contribution in excess of \$50, and the identification of any person who makes a contribution, or contributions aggregating more than \$200 during a calendar year. *See* 2 U.S.C. §§ 432(c)(1) and 432(c)(2). The Act requires the treasurer to disclose this information in the committee's disclosure reports. *See* 2 U.S.C. § 434(b)(2). Hynes for Senate did not disclose the receipt of office furniture from APEX or Mr. Chao in any of its disclosure reports.

### IV. CONCLUSION

Accordingly, there is reason to believe that Hynes for Senate and Jeffrey Wagner, in his official capacity as treasurer, violated 2 U.S.C. § 434(b)(2) by failing to report all contributions received by Hynes for Senate.